

ORDINANCE NO. CO30.15.07.23.C2

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AMENDING THE CEDAR PARK CODE OF ORDINANCES, CHAPTER 6 SEASONAL, TEMPORARY AND MOBILE BUSINESS AND EVENTS, ARTICLE 6.04 PEDDLERS AND APPENDIX A FEE SCHEDULE, ARTICLE 3.000 BUSINESS RELATED FEES, SECTION 3.200 PEDDLER PERMIT FEE; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Council finds that additional regulation of peddlers and solicitors will enhance public health, safety, and general welfare of the residents of the City, including the protection of residents' private property; and

WHEREAS, City staff evaluated the City's regulations governing peddlers and solicitors and found that the City's regulations are not adequately restrictive compared to other cities of similar size and character; and

WHEREAS, the City Council finds the amendments which include additional regulations for peddlers and solicitors, and the removal of outdated and unnecessary provisions, to be for the good government, peace, and order of the City; and

WHEREAS, pursuant to Texas Local Government Code Chapter 51, the City Council may adopt, publish, amend, or repeal an ordinance, rule, or police regulation that is for the good government, peace, and order of the municipality.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS:

SECTION 1. That Article 6.04 and Appendix A of the Cedar Park Code of Ordinances is hereby amended as provided in the attached Exhibit A.

SECTION 2. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public

and that public notice of the time, place and purpose of said meetings were given all as required by law.

SECTION 5. This Ordinance shall be and remain in full force and effect from and after the date of approval.

READ AND CONSIDERED ON FIRST READING by the City Council of Cedar Park at a regular meeting on the 9th day of July, 2015, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Cedar Park at a regular meeting on the 23rd day of July, 2015, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

CITY OF CEDAR PARK, TEXAS

ATTEST:

/s/

Matthew Powell, Mayor

/s/

LeAnn M. Quinn, TRMC
City Secretary

APPROVED AS TO FORM
AND CONTENT:

/s/

J.P. LeCompte, City Attorney

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EXHIBIT A

ARTICLE 6.04 PEDDLERS*

Sec. 6.04.001 Definitions

Canvasser. Any person who, without invitation, travels door to door and attempts to make personal contact with an occupant or distributes written or printed material for the primary purpose of attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or advertising or notifying of a non-commercial event or service.

Flyer. Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, handbill or any other printed or otherwise reproduced original or copies of any matter or literature, other than those advertising or notifying of a non-commercial event or service, delivery notices, newspapers, or newsletters.

Peddler. Any person who, without invitation, travels from door to door, and offers goods, services, wares, subscriptions, photographs, or other merchandise for sale, or any person engaging or engaged in the business of distributing Flyers, or advertising a commercial event, good or service. The term shall not include a Canvasser, as defined herein.

Solicitor. Any person who, without invitation, travels from door to door and requests the donation of money, property, or anything of value, or the pledge of a future donation of money, property, or anything of value. The term shall not include a Canvasser, as defined herein.

Sec. 6.04.002 Permit required

It shall be unlawful for any person to be a Peddler or Solicitor within the City without first applying for and obtaining a permit to do so from the City.

Sec. 6.04.003 Permit application

Any person desiring to be a Peddler or Solicitor within the City shall first submit to the Director of Development Services, or their designee, a completed application on the official form, and pay the applicable fee in accordance with the Fee Schedule in Exhibit A of this Code, as amended.

Sec. 6.04.004 Issuance of permit

No permit shall be issued until such application has been filed with the City for a period of not less than seventy-two (72) hours. Within that seventy-two (72) hours of the filing of the permit application, the Director of Development Services, or their designee, will

either issue a permit or notify the applicant that the application does not comply with the requirements of the Department of Development Services and specifically point out what information or explanation has not been furnished that is required before a permit is issued. Each permit issued under the provisions of this article shall contain the name of the permittee, permit number, date of expiration of permit, and the signature of the Director of Development Services, or their designee. The permittee shall display the permit on their person so that it remains clearly visible at all times.

Sec. 6.04.005 Revocation of permit

Any permit issued pursuant to this Article is subject to revocation by the Director of Development Services, or their designee, upon discovery of any false or misleading statements contained in the application, for a violation of this Article, for failure of the permit holder to fulfill obligations which he incurs to purchasers or potential purchasers, or for other good cause. Upon revocation of such permits the permit holder may appeal such revocation within ten days to the City Manager, or her/his designee, who will conduct an investigation at a time and place designated for the purpose of determining the existence of good cause for the revocation.

Sec. 6.04.006 When permit not required

The permit required by [section 6.04.004](#) and the bond required by [section 6.04.006](#) shall not be required of the following:

- (1) Ordinary commercial travelers who sell or exhibit for sale goods, wares and merchandise to persons engaged in the business of buying, selling and dealing in the same within the City; and
- (2) Sale of goods, wares and merchandise, the proceeds of which are to be used and applied to some locally recognized charitable, educational, religious or philanthropic purpose, including adult-sponsored youth scouting and extra-curricular activities.

Sec. 6.04.007 Surety Bond required

Peddlers who require cash deposits or advance payments for future delivery or who require an agreement to finance the sale of goods or services for future delivery, or for services to be performed in the future, shall, as a condition of a permit, file a bond with - the Development Services Department in the sum of \$1,000.00 per Peddler, executed by such applicant as principal and a surety company licensed to do business as such in this state. No application shall be accepted, and no permit shall be issued hereunder, without a surety bond as set forth herein. Such surety bond shall be conditioned on the final delivery of goods or services in accordance with the terms of any order obtained.

Sec. 6.04.008 Permit not transferable

Each permit issued under the provisions of this article shall not be transferable or assignable and shall give to no person, other than the permittee, authority to transact any business in the City as a Peddler.

Sec. 6.04.009 Term of permit

Each permit required by this article shall be valid for a period of ninety (90) calendar days.

Sec. 6.04.010 Hours restricted

It shall be unlawful for any Peddler, Solicitor, or Canvasser to engage in the business of peddling at any time between the earlier of 8:00 pm and thirty (30) minutes after sunset and the later of 7:00 am and thirty (30) minutes after sunrise.

Sec. 6.04.011 Peddling on public property restricted

(a) Unlawful to sell, exhibit or advertise on public property. Unless otherwise permitted by this Code, no person shall sell, exhibit or advertise for sale on any street, sidewalk, alley, median, parkway or portion of public right-of-way within the city limits any goods, wares, merchandise of any kind or character; or to use any part of the streets, sidewalks or alleys within the City as a place to carry on such trade, profession or business.

(b) Unlawful to solicit for contributions on public property. No person shall have the right to solicit for contribution or donations on any street, sidewalk, alley, median, parkway or portion of the public right-of-way within the City; or to use any part of the streets, sidewalks or alleys within the City as a place to carry on such solicitation.

(c) Chief of police authorized to grant permission for use of public right-of-way. Notwithstanding subsections (a) and (b), upon application to the chief of police, or their designee, in writing, and based upon a showing of good cause or public need, the chief of police, or their designee, shall have the authority to grant permission to any person, firm, corporation, association or organization the right to conduct such trade, profession, business or solicitation on a public right-of-way, designating the exact location, time and duration of such permit.

Sec. 6.04.012 Peddling & Soliciting prohibited

It shall be unlawful for any Peddler or Solicitor to go upon any private property if there is placed on such property in a conspicuous place upon or near the main entrance to the residence, a sign or card, not less than three (3) inches by four (4) inches in size, bearing the words "no trespassing," "no peddlers," "no advertisements," "no solicitation," "no

handbills,” or any similar notice indicating in any manner that the occupants of such property do not desire to be approached by a Peddler or Solicitor.

Sec. 6.04.013 Distribution of Flyers

(a) It shall be unlawful for any person to distribute or cause to be distributed, deposited, placed, thrown scattered, or cast any Flyer upon any private property except by handing or transmitting such Flyer directly to the owner, occupant, or any other person then present in or upon such private property, or by placing or depositing the same in a manner to secure and to prevent such Flyer from being blown or drifting about such property, except that mailboxes may not be used when prohibited by applicable federal or state law.

(b) It shall be unlawful for any person to distribute or cause to be distributed, deposited, placed, thrown, scattered, or cast any Flyer upon any private property if requested by anyone thereon not to do so, or if there is placed on such property in a conspicuous place upon or near the main entrance to the residence, a card, not less than three (3) inches by four (4) inches in size bearing the words “no trespassing,” “no peddlers,” “no advertisements,” “no solicitation,” “no handbills,” or any similar notice indicating in any manner that the occupants of such property do not desire to have any such Flyers left upon such property. The letters on such cards shall be not less than two-thirds (2/3) of an inch in height.

Sec. 6.04.014 Refusing to leave

It shall be unlawful for any Peddler or Solicitor who enters upon any private property to not immediately leave such property after having been notified or requested to leave by the owner, occupant, or person in charge or control of such property.

Sec. 6.04.015 Provisions cumulative

The provisions of this Article shall be cumulative of state law, including but not limited to Texas Penal Code Section 42.01 regarding disorderly conduct and Texas Penal Code Section 30.05 regarding criminal trespass.

Sec. 6.04.016 Penalty; enforcement

It is unlawful for any person, firm, corporation, or agent to fail to comply with the requirements of this article or any provision thereof, and each such failure shall be punished as a class C misdemeanor by a fine in accordance with the general penalty provision found in [section 1.01.009](#) of this Code. Each such person, firm, corporation, or agent shall be deemed to be guilty of a separate offense for each and every day, or part thereof, during which any violation of this article is committed or continued. Any complaint related to the violation of this article or any provision thereof shall be filed with the municipal court clerk.

APPENDIX A FEE SCHEDULE

ARTICLE 3.000 BUSINESS RELATED FEES

Sec. 3.200 Peddler permit fee

There is hereby fixed a permit fee \$50.00 per ninety (90) calendar days, which shall be collected from any Peddler. In no event shall there be any refund or proration of any fee paid under this section.